

**UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF PENNSYLVANIA**

IN RE GEISINGER SYSTEM  
SERVICES AND EVANGELICAL  
COMMUNITY HOSPITAL  
HEALTHCARE WORKERS  
ANTITRUST LITIGATION

No.: 4:21-cv-00196 (MWB)

Chief Judge Matthew W. Brann

**JOINT CASE STATUS REPORT**

Plaintiffs Nichole Leib and Kevin Brokenshire (“Plaintiffs”) and Defendants Geisinger System Services and Evangelical Community Hospital (“Defendants”) (together, the “Parties”), by and through their respective undersigned counsel, hereby submit this Joint Case Status Report regarding Plaintiffs’ anticipated substitution of their economics and statistics expert and the Court’s request for the Parties’ availability for a hearing on the class certification and *Daubert* motions.

1. Plaintiffs’ economics and statistics expert, Edward Leamer, Ph.D., was recently diagnosed with amyotrophic lateral sclerosis (ALS), also known as Lou Gehrig’s disease. As a result of this illness, Dr. Leamer has lost the ability to speak and will not be able to continue as Plaintiffs’ expert or attend any hearings.

2. Plaintiffs became aware of this diagnosis after contacting Dr. Leamer to determine his availability for the anticipated hearing on the Parties’ class certification and *Daubert* motions. Plaintiffs first disclosed this development by email to the Court and Defendants on January 2, 2025.

3. Given the unavailability of Dr. Leamer, Plaintiffs seek to substitute Dr. Leamer with Dr. Phillip Johnson of Econ One Research as Plaintiffs' economics and statistics expert.

4. To reach a workable agreement to substitute Dr. Leamer with Dr. Johnson, the Parties met and conferred on January 7, 14, and 30, and February 19, 2025. Defendants do not oppose Plaintiffs' proposal to substitute Dr. Leamer with Dr. Johnson conditioned on the following procedures:

- a) Dr. Johnson's deposition will be held in Washington, D.C. at a mutually convenient time and date;
- b) The scheduling order will be modified to accommodate the supplemental expert discovery and additional briefing, if any, on the pending class certification and *Daubert* motions, including any new *Daubert* motion to strike Dr. Johnson's testimony by Defendants; and
- c) Dr. Johnson's supplementation of his January 17, 2025, expert report, to identify the prior representations in which he served as a testifying expert for the past four (4) years and disclose all publications during the 10-year period required under Fed. R. Civ. P. 26.

5. The Parties are unable to agree on one related expert discovery issue. Defendants maintain that they are entitled to discover Dr. Johnson's communications with Dr. Leamer. Plaintiffs maintain that discovery of the

communications between Drs. Johnson and Leamer is not appropriate under the terms of the Stipulation and Order regarding Expert Discovery in this matter. To move this case forward in an efficient manner, and without waiving any of their rights, Defendants have agreed to defer pursuing a Court Order compelling production of the communications between Drs. Johnson and Leamer until after a record is made at Dr. Johnson's deposition.

6. Accordingly, the Parties stipulate and respectfully request that the Court enter an order (*see* Proposed Order) consistent with the following:

- a) **No later than seven (7) days** from the filing of this Joint Case Status Report, Plaintiffs shall supplement Dr. Johnson's expert report, served on January 17, 2025, to (i) identify the prior representations in which he served as a testifying expert in the past four (4) years, and (ii) disclose all publications during the 10-year period required under Fed. R. Civ. P. 26.
- b) **No later than thirty (30) days** from the filing of this Joint Case Status Report, Plaintiffs shall produce Dr. Johnson for deposition by Defendants in Washington, D.C., at an agreed-upon date and time.
- c) **Within thirty (30) days following Dr. Johnson's deposition,** Defendants shall indicate to Plaintiffs whether they intend to: (i) supplement their opposition to Plaintiffs' motion for class

certification; (ii) supplement their motion to exclude Dr. Manning; (iii) pursue any additional discovery from Dr. Johnson, including the communications between Drs. Johnson and Leamer; and/or (iv) file a new motion to exclude the testimony of Dr. Johnson.

- d) **Within seven (7) days of Defendants' disclosure under 6(c)**, the Parties shall file with the Court an updated status report regarding the status of expert discovery and submit a proposed schedule to complete any briefing on the class certification and *Daubert* motions and present any discovery issue for resolution by the Court. The Parties shall endeavor to reach agreement on that scheduling. If there is no supplemental briefing, **within seven (7) days of Defendants' notice**, the Parties shall request that the Court reschedule the hearing on the pending motions.

DATED: February 21, 2025

Respectfully submitted,

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